

ALBUQUERQUE EVENING CITIZEN.

VOLUME 19

ALBUQUERQUE, NEW MEXICO, THURSDAY EVENING, JULY 20, 1905.

NUMBER 189

CONTRACT OF WATER
SUPPLY COMPANY

Requires no Payment to the Company for Hydrants Unless Ordered by the City.

The Morning Journal, in its desperate effort to stay the rising tide of public sentiment in favor of the establishment by the city of a system of water works in case the water company demands an unreasonable price for its antiquated plant, picks out a single sentence from the contract between the city and the water company and draws therefrom the conclusion that if the city should take such a course, it would be compelled, not only to pay hydrant rental to the company for the hydrants now in use, but also \$35 per annum for any hydrant which the city might establish, and to which it might furnish water from the city water works. But contracts are not to be construed in this way. They must be taken as a whole, and isolated sentences cannot safely be considered and passed upon without reference to the context, the general subject matter and surrounding circumstances. A brief quotation from the supreme court of the United States will show what the true doctrine is:

"Courts, in the construction of contracts, look to the language employed, the subject matter and the surrounding circumstances. They are never shut out from the same light which the parties enjoyed when the contract was executed, and in that view they are entitled to place themselves in the same situation as the parties who made the contract, so as to view the circumstances as they viewed them, and so to judge of the meaning of the words and of the correct application of the language to the things described."

In accordance with this rule, let us consider the subject matter of the contract which was made in 1894 between the city and the water company, and the surrounding circumstances, and attempt to place ourselves "in the same situation as the parties who made the contract, so as to view the circumstances as they viewed them, and so to judge of the meaning of the words and of the correct application of the language to the things described."

The subject matter of the contract was the furnishing of water to the city and to its inhabitants by the water company upon terms and under regulations which were provided for, and for a compensation which was fixed. It is absurd to say, as the Journal contends, that it was ever within the contemplation of the parties to the contract that the city or its inhabitants should pay anything to the water company for water which it did not furnish, or rentals for hydrants which it did not supply. The contract did not attempt to give the water company any exclusive privilege, and if it had so attempted, it would, to that extent, have been ineffectual. If any other company had come in, and with the consent of the city council, occupied a part of the city, selling water and renting hydrants to the city, it could not be contended that the city should pay twice over for that water or those hydrants, once to the old company and again to the new company.

CANADIAN AND
MEXICAN LINE

Between Montreal and Tampico, Subsidized By Both Governments.

SAILED ITS FIRST STEAMER

Montreal, Quebec, July 20.—The new Canadian-Mexican steamship service was inaugurated today, when the steamship Comosale, subsidized by the Canadian and Mexican governments, sailed from the port for Mexico by way of Havana. The new service is to be maintained by the Elder Dempster company.

The contract of the company calls for a monthly service. The steamships will touch at Charlottetown, P. E. I., Halifax, N. S., Havana, Cuba, and Progresso, Vera Cruz, Tampico, and one or two other Mexican ports. The winter service will be operated direct from Halifax.

By the terms of the contract with the Mexican government, boats may carry cargoes and passengers from Canada to Cuba. Cargoes and passengers are to be carried both ways between Mexico and Canada, but on northbound trips no freight may be handled from Cuba to Canada. The Mexican government objected to subsidizing a line that would be used to build up trade between Cuba and Canada.

It was expected that simultaneously with the establishment of the Atlantic service, a similar steamship on the Pacific coast between Vancouver and Mexican Pacific ports would be inaugurated. The Mexican government, however, has decided to postpone for the present, the establishment of such a service.

Agree to American Boycott. Shanghai, July 20.—About 1,500 people, including the heads of all the principal guilds and delegates from many provinces, attended the Chinese mass meeting yesterday, which arranged to begin the Chinese boycott of American goods tomorrow. There is still much doubt as to whether the boycott will really be maintained.

A quotation from the contract of 1894 will more clearly illustrate the correctness of our position:

"To pay to said company hydrant rental during the period of twenty-five years from and after the date of the approval of said franchise by the people as follows:

"For the first 100 hydrants, \$50 each per annum. The city to pay such rental from said date for 100 hydrants, eighty-four of which are now in place, and shall not be disturbed, or the location thereof changed, and at least four of the remaining sixteen to be placed on mains already laid, and the other twelve, at the option of the city council, to be placed either on mains now laid or on extensions to be hereafter ordered; provided, that the city may order extensions of the mains until 100 hydrants are in place, without reference to the amount of income from such extensions, the city to take hydrants at the rate of ten per mile on such extensions; and the connections made necessary by a said franchise as to the length of four and five-inch mains without feeders, shall be counted as extensions entitling the said company to have hydrants taken at the rate of ten hydrants per mile, said connections not to exceed twenty-one hundred and sixty feet.

"All additional hydrants which the city may need after the first 100, shall be rented from said company, and paid for at the rate of \$35 each per annum."

The last sentence of this quotation is the one upon which the Morning Journal bases its assertion that if the city erected hydrants of its own, it would still be compelled to pay to the water company \$35 per year for each of them. It is evident that the provisions in the contract as to hydrant rental are taken together, it is perfectly clear that in 1894 the city and the water company were considering hydrants to be furnished by the water company, and payment therefor, and not that the city should erect hydrants of its own, or by the city itself. It never entered the mind of anyone that the city, for the twenty-five years of the franchise, was putting itself into a state of absolute bondage to the water company. That this contract does not mean what the Journal says it does, will be perfectly obvious if we consider for a moment what would have been the result if, in 1894, it had been distinctly proposed that payment must be made to the company for all hydrants, even if furnished by some other company, or by the city itself. Such a proposal would have been instantly rejected, and it is now too late, in the light of all the "surrounding circumstances" which attended the making of the contract in 1894, to attempt to give any such proposition meaning to a single sentence, which, taken in connection with what precedes it, can be held to apply to nothing except the hydrants which the water company might be called upon to furnish under the terms of its agreement.

ANOTHER INSTANCE OF
LAW'S UNJUSTIFIED DELAY

Philadelphia, Pa., July 20.—This was the date originally fixed for the hanging of Joseph Gibson, who murdered John Thomas, the old watchman of the Houston club, of the University of Pennsylvania, but Governor Pennypacker has granted a stay in order to allow the board of pardons to consider an application for a commutation of the sentence to life imprisonment.

INCREASED DIVIDENDS
ARE SCHEDULED

New York, July 20.—The directors of the Amalgamated Copper company declared a quarterly dividend of 1 1/4 per cent. This is an increase of 1/4 per cent over the last quarterly dividend.

Union Pacific Follows Suit. New York, July 20.—The directors of the Union Pacific railroad today declared a dividend of 2 1/2 per cent on common stock payable October 1st. The last semi-annual dividend was 2 per cent.

ROYAL ARCANUM FIGHT
MERRILY IS PROGRESSING.

Boston, Mass., July 20.—In line with similar action taken in other states, the Massachusetts grand council of the Royal Arcanum met today and adopted strong resolutions of protest against the action of the supreme council in advancing the insurance rates of the order. Under the constitution of the order, if a majority of the grand councils petition the supreme regent, that official will be required to call a special meeting of the supreme council to reconsider its action. Should the supreme council then continue in its action to rescind the increase in rates it is considered probable that many members will withdraw and unite in forming a new order.

BUT WILL IT BLOSSOM?

DEATH-DEALING HEAT WAVES SEEMS
AT LAST TO HAVE BEEN BROKEN

New York, July 20.—The wave of intense heat which had this city in its grasp for more than a week, causing nearly 200 deaths, several times as many serious prostrations, and suffering to millions, has been thoroughly broken. Two deaths from heat and several prostrations were reported early today, but in nearly every case they were thought to have been due to exhaustion.

GOD-GIVEN RAINS SAVE
MANY FROM DEATH.

Chicago, July 20.—The warm wave has passed off the Atlantic coast and a moderate temperature now prevails in all districts. Local rains have prevailed in the Ohio valley, Tennessee, Arkansas and Missouri. Local rains are indicated for the lower Ohio and the middle and upper Mississippi valleys, and the southern part of the western lake region. Moderate temperatures will prevail in the lower Ohio, middle and upper Mississippi valleys and from the lake region to the lower Missouri valley during the next two days.

FOREIGN AFFAIRS OF
MORE OR LESS INTEREST

Moscow, July 20.—The Zemstvo congress reassembled today without interference on the part of the authorities, and commenced discussing the proposed constitution.

Stoessel Not Appointed. St. Petersburg, July 20.—The report that Lieut. General Stoessel, who commanded at Port Arthur, had been appointed commander of the seventh army corps, is officially denied.

Japs Begin to Get Busy. Russian Headquarters at Front (location not given) July 20.—The Japanese advance from Korea is taking on a more energetic character and is being pushed towards Mousan, Nangan and Hasegawa. The Japanese seem to have received heavy reinforcements from Field Marshal Oyama's main army in the front of Gen. Linvitch.

CALEB POWERS IN
UNCLE SAM'S HANDS

Caleb Powers, the former secretary of state of Kentucky, who has been under sentence of death for years for alleged complicity in the murder of Governor Goebel, is now in jail at Newport, Ky., where the above photograph was taken. Powers is now a United States prisoner and his appeal will soon be heard in the federal courts.

DEVLIN WRECKED
KANSAS CITY BANK

But Besides His Notes Bank Held Other Bad Paper.

LARGE DEPOSITS ARE WITHDRAWN

Kansas City, July 20.—The City National bank failed to open its doors today. The bank held checks of C. J. Devlin of Topeka for upwards of \$100,000, and its failure is the direct result of that of the First National bank of Topeka, of which Devlin was the principal stockholder. The City National bank had a capital of \$300,000 and deposits of nearly a million and a half. The bank examined under instructions from the comptroller of the currency. The comptroller yesterday, it is asserted, informed the officers of the bank that it must take up \$200,000 of bad paper immediately or it would not be permitted to open today.

The bank was examined last night by a committee of local bankers who reported at the meeting early today that the affairs of the bank were in such shape that they would not feel justified in extending assistance.

Although the holding of Devlin paper, upon which no immediate realization could be made, was the prime cause of the failure, it was stated that a general knowledge that the bank held other bad paper and was in bad condition, had led to a gradual withdrawal of deposits during several months. These withdrawals in the last sixty days amount to \$600,000.

CAPTAIN HOBSON'S WIFE
ILL IN DES MOINES

Des Moines, July 20.—Mrs. Richmond Pearson Hobson, wife of Captain Hobson, the hero of the Merrimac, is ill at Mercy hospital. Captain Hobson is at the bedside and some of his lecture dates may be cancelled. Mrs. Hobson was suddenly taken ill while passing through Iowa. She gradually grew worse until she reached Des Moines. Her sickness is said to be of minor nature, but some concern is felt lest it become serious.

ORE THIEF CAPTURED
WITH LOT OF STUFF.

Denver, Colo., July 20.—Thomas C. Brown, declared by the police to be the head of the ore thieves in the Cripple Creek district, was arrested today and had a trunk containing \$1,500 worth of fine ore.

STILL SEARCHING
FOR LOST CHILD

Special to The Citizen. Holbrook, Ariz., July 20.—At noon today 100 men and scouts are still searching the White mountains for Katie Hatch. It is believed that the scout, "Chicken," has found a new trail, as he did not come in to Coolidge's ranch last night for food, but sent word by an Indian to Mr. Coolidge, as follows: "Poco demos, me find." All hope of recovery of the child is centered in him, he being the only person able to follow the trail of the little girl, who is now believed to have perished.

PRESIDENT AND KING
POPULAR IN CANADA

Fourth of July and Dominion Day are Often Celebrated Together—Plenty of Liberty in Northern Country.

Winnipeg, Manitoba, July 20.—From one end of Canada to the other the name of President Roosevelt is greeted with acclaim. It is small exaggeration to say that our president is as popular north of the line as he is in the United States. King Edward VII. is also popular, and it is quite common at dinners where both Americans and Canadians are present, to couple the names of the "Two Teddies" in a toast.

The withdrawal by Great Britain of all war ships from Canadian waters, has served to call attention to a rather new phase, if not interpretation, of the Monroe doctrine. As the situation is now understood in Canada, the United States has become a sort of guardian of Canada. It is taken for granted that the United States will hereafter undertake the responsibility of safeguarding Canada from any European encroachment.

Great Britain is delighted to delegate this business to the United States, and by withdrawing her military arm, has already transferred to us all further responsibility in this regard.

The large increase in the population from the United States in Canada has resulted in a good natured contest of national traditions and celebrations. For example, American Independence Day, the "glorious Fourth," does not appeal to the native Canadian, and on the other hand, Dominion Day, which the Canadians celebrate on the first of July, and which commemorates the confederation of the separate Canadian provinces, does not appeal much to the men from the states. So a compromise is frequently made, and a joint celebration is held on the 2d or 3d of July.

While there is absolutely no sentiment throughout Canada in favor of annexation to the United States, there is discoverable here and there a lurking sentiment in favor of Canadian independence. But this sentiment struggles hard with the spirit of loyalty to the traditions of the mother country.

The Canadian toasts the king, but

that is all he does for monarchy. And so long as that is all he is asked to do, things are apt to go on very much as they are at present. The Canadian is proud to share in England's glory; to be a member of the empire on which the sun never sets, and the drum beats of whose garrisons follow the sun around the world. All that business fills the Canadian with ardor.

He is willing to let the British treasury pay the \$50,000 salary of the governor general, and he is willing to have a governor general so long as the office is a mere figure-head. The Canadian is willing to send a few volunteers to aid the mother country to fight the Boers or others, so long as Great Britain makes no effort to force a levy of soldiers, or to tax the cost of the war against the colony.

Canada is willing to give England a slight preference in her trade relations, so long as it does not interfere with the full development of home industries. In short, the Canadian is delighted to cheer for the king, so long as it is a mere matter of cheering.

An American, who was on his first visit to Canada, and who was somewhat surprised to find no greater difference between his own republic and the colonial tributary to the British crown, expressed the situation as follows:

"In all the essentials of genuine liberty the people of Canada are as free as the people of our republic. Their traditions of personal liberty are our traditions; they have the Magna Charta, the writ of habeas corpus, the right of trial by jury, and to cross-examine the complaining witnesses; they have representation in exchange for taxation, and the law-making of the country is done by the people. Personal liberty and private property are as sacred in Canada as in the United States. The jurisprudence and the traditions of the law are the same."

"In short, it is in the non-essential forms that the countries differ. In all matters which are vital to the liberty of the people, the two nations are now almost identical."

ORGANIZATION

ORDER OF DAY

Every Kind of Interest Meets

In Annual Session

From

EAST, WEST, NORTH AND SOUTH

BANK CLERKS ASSEMBLE

IN THIRD CONVENTION

Minneapolis, Minn., July 20.—The eyes of active bank clerks throughout the country are now turned toward this city, where the third annual convention of the American Institute of Bank Clerks opened today. This annual gathering of the younger generation of bank men bears the same relation to the clerk as the convention of the American Bankers' association does to the officer. Papers are read on practical banking topics, debates are held and the business of the institute is transacted during the three days while the social side is not neglected. The present convention is attended by about 250 delegates representing forty-five cities of the United States and Canada.

THOSE WHO GIVE SIGHT

TO THOSE THAT ARE BLIND

Rochester, N. Y., July 20.—The New York State Optical society is holding its annual convention in Rochester with a large and representative attendance. A business meeting was held this morning, scientific papers were read this afternoon, and this evening the convention concludes with a banquet at the Rochester club.

DAKOTA SPORTSMEN

HAVE ANNUAL SHOOT

Grand Forks, N. D., July 20.—The annual tournament of the North Dakota State Sportsmen's association opened here today under the auspices of the Grand Forks Gun club. There is a large attendance of prominent shots from North Dakota and neighboring states and also a number of well known experts and professionals attracted by the liberality of the prizes offered. Today's events included ten events of fifteen targets each and a team shoot at twenty-five targets. The tournament will conclude tomorrow.

PRINCESS ANNE COUNTY

UNVEILS MONUMENT

Norfolk, Va., July 20.—A monument to the memory of the Confederate soldiers of Princess Anne county was unveiled today with impressive ceremony and in the presence of a large crowd, including many veterans from this city. The address of the day was delivered by the Hon. John Goode. The monument is a handsome affair of granite and cost \$2,000.

EMPLOYING PRINTERS

CONGREGATE AT MILWAUKEE

Milwaukee, Wis., July 20.—Employing printers of the central northwest, embracing Wisconsin, Michigan, northern Illinois, eastern Minnesota and northeastern Iowa, are in session here today to take action on the demands of the International Typographical Union for the inauguration of the eight hour day on January 1, 1906. It is probable that no definite decision will be reached until after the employers of this section have communicated with the typographers of other parts of the country so that united action may be taken in complying with or opposing the demands of the printers.

AMERICAN ASSOCIATION

ADVANCEMENT OF SCIENCE

Syracuse, N. Y., July 20.—The American Association for the Advancement of Science began a field meeting in